

EXHIBIT “D”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: CRIMINAL TERM, PART 31

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THE PEOPLE OF THE STATE OF NEW YORK :

- against - :

DECISION AND ORDER

CHRISTINE ALBERTO, :

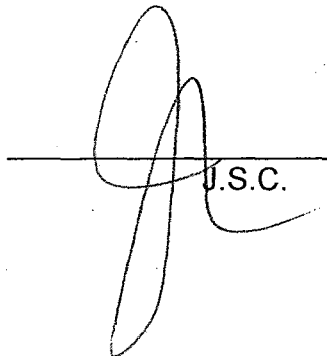
Ind. No. 3944/14

Defendant. :

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JILL KONVISER, J.:

The motion to inspect the Grand Jury minutes is granted. The motion to dismiss the charges for defects in the proceedings is granted, with leave to re-present. Pursuant to C.P.L. § 210.35(5), a Grand Jury proceeding is defective when "the integrity thereof is impaired and prejudice to the defendant may result." In the instant matter, the People elicited evidence of a completely separate burglary alleged to have occurred in New Jersey. While evidence of that alleged burglary may have been relevant and admissible to demonstrate, for example, the defendant's intent in this case, the People failed to so instruct the Grand Jury. So, too, the People elicited testimony that suggested the defendant, who was not located at the address provided on her driver's license, was attempting to avoid apprehension. Again, while evidence of that nature may have been relevant and admissible to demonstrate, for example, the defendant's consciousness of guilt, the People failed to so instruct the Grand Jury. Thus, the integrity of the proceedings was impaired and the defendant prejudiced as a result. Consequently, the defendant's motion to dismiss the indictment is granted with leave to re-present.


Dated: New York, New York
May 12, 2015


J.S.C.

MAR 11 2016

DATE

I hereby certify that the foregoing
paper is a true copy of the original
thereof, filed in my office.


County Clerk and Clerk of the
Supreme Court New York County
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